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BY HAND-DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Carolina Telephone and Telegraph Company and
Central Telephone Company (Sprint)
CC Docket No. 96-128

Dear Mr. Caton:

I am writing on behalf of the North Carolina Payphone Association ("NCPA"), a voluntary trade association of independent payphone providers which provide public and confinement facility pay telephone service in North Carolina. By this letter, NCPA respectfully requests that the Commission begin an investigation of the May 19, 1997, filing of Carolina Telephone and Telegraph Company and Central Telephone Company (collectively, in light of their ownership by Sprint, "Sprint-Carolina/Central") in which Sprint-Carolina/Central purports to demonstrate to this Commission that its intrastate rates charged to payphone service providers ("PSPs") satisfy the "new services" test of the Commission's Payphone Orders.¹ Since Sprint-Carolina/Central's filing -- on

¹ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, FCC 96-388 (Released: Sept. 20, 1996) ("Payphone Order"), Order on Reconsideration, FCC 96-439, (Released: Nov. 8, 1996) ("Reconsideration Order"), Order, DA 97-678, (Released: April 4,

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its face -- fails to comply with the new services test, and since the North Carolina Utilities Commission is unable to review the rates of North Carolina LECs, the FCC has the responsibility to review Sprint-Carolina/Central's rates.

In its Payphone Orders, the Commission has required all LECs to file intrastate tariffs for basic payphone services and functions that are, among other things, cost-based in compliance with "new services" test. *See, e.g.,* Order on Reconsideration, ¶ 163. Where LECs have already filed intrastate tariffs for payphone services and functions, states are directed to review these tariffs for compliance with the new services test. *Id.* In the event that states are "unable" to review these tariffs, they "may require the LECs operating in their state to file these tariffs with the Commission." *Id.*

By Petition filed on March 20, 1997, the NCPA requested that the North Carolina Utilities Commission ("NCUC") investigate the compliance of all North Carolina LECs' intrastate payphone tariffs with the FCC's Payphone Orders.² In response to this Petition, by order dated May 15, 1997, the NCUC determined that "it is unable to review such tariffs" and directed all North Carolina LECs to examine their existing PTAS rates and to make appropriate filings justifying those rates with the FCC. Specifically, the NCUC held as follows:

"[A]ll LECs who determine, based on their own analyses, that any existing PTAS rates do not meet the 'new services' test, [must] file revised rates and supporting data with the FCC for review by May 19, 1997. Existing rates include rates for PTAS lines and trunks, PTAS usage rates, and rates for various PTAS options. LECs who decide to file cost studies for existing rates that they conclude do not meet the 'new services' test shall file those studies with the FCC."

1997) (CCB) (clarifying the Payphone Order and Reconsideration Order) ("Clarification Order"), Order, DA 97-806 (Released: April 15, 1997) (CCB) ("Waiver Order"). The Payphone Order, Reconsideration Order, Clarification Order and Waiver Order are referred to collectively herein as the Payphone Orders.

² NCPA filed this Petition as a result of the complete failure of North Carolina LECs to file "cost based" rates in compliance with the new services test. As of this date, no North Carolina LEC has revised its rates for payphone services or functions subscribed to by PSPs in response to the Payphone Orders, and Sprint-Carolina/Central is the only LEC which has submitted any sort of cost analysis attempting to justify its existing rates.

Order Dismissing Petitions and Directing Filings, Docket No. P-100, Sub 84b, p. 10. A copy of the NCUC's May 15 order is attached hereto as Exhibit A.

On May 19, 1997, pursuant to the directive of the NCUC, Sprint-Carolina/Central filed with the FCC a document that purports to justify its existing intrastate payphone service rates under the new services test. In this submission, Sprint-Carolina/Central did not file any revised rates and did not even file a copy of its existing intrastate payphone tariffs. Instead, it filed a one-page cost analysis for each company labeled "New Services Test."

Since the NCUC has stated it is unable to review the LEC payphone service tariffs, the determination whether those tariffs comply with the new services test is now the exclusive responsibility of the FCC. *See, e.g.,* Reconsideration Order, ¶ 163. Accordingly, this Commission must begin an investigation of Sprint-Carolina/Central's payphone service rates.

Even a cursory review of Sprint-Carolina/Central's filing shows that Sprint-Carolina/Central has not complied with the Commission's Payphone Orders with respect to its existing intrastate payphone rates.

First, as noted above, Sprint-Carolina/Central has failed to file its payphone service tariffs with the FCC, as the Payphone Orders require in these circumstances. *See, e.g.,* Reconsideration Order, ¶ 163 ("States unable to review these tariffs may require the LECs . . . to file these tariffs with the Commission."). As a result, the Commission has no means of determining precisely what rates and conditions apply.³ Without a tariff, Sprint-Carolina/Central's cost information is devoid of context or meaning. As a starting point, Sprint-Carolina/Central should be required to file a complete copy of its payphone service tariffs, including any cross-referenced rates, such as local usage rates, that may be applicable.

Second, the information supplied by Sprint-Carolina/Central does not provide even a semblance of an analysis of Sprint-Carolina/Central's direct costs. The information for each LEC is presented as line items on a single page with no accompanying explanation of how they were derived. Based on the terminology used ("General Support Facilities Allocated," "Other Investment Allocated"), the numbers presented as "direct" costs appear to be the result of an allocation of Sprint-Carolina/Central's total costs, based on a separations-type analysis that attributes costs to "toll" and "non-toll" categories. Further, the tabulation of "direct" costs includes some categories, such as

³ Although Sprint-Carolina/Central's "New Service Test" documents specify a "proposed average flat rate" and a "proposed average measured rate," there is no indication how those "rates" are derived from Sprint-Carolina/Central's tariffs.

"General Support Facilities" and "Corporate Operations Expenses," that appear to be more appropriately treated as overhead, and other categories, such as "IOT Investment Excl. Coin" that have nothing to do with the provision of payphone services. The "Total Annual Cost" arrived at is then simply divided by Sprint-Carolina/Central's total switched access lines (payphone and non-payphone), without even considering whether the costs are traffic sensitive, in order to arrive at an "annual cost per line." Finally, costs are compared to average rates, with no explanation of how the average rates are derived.

Sprint-Carolina/Central's presentation of costs is the antithesis of the direct cost analysis required by the new services test. There is no indication that any of the costs are directly assigned, as opposed to allocated. There is no attempt to indicate the relationship of the various cost categories to the provision of payphone service. Further, there is no attempt to differentiate between direct costs and overhead. Finally, since the derivation of Sprint-Carolina/Central's "average" rates is totally unexplained, there is no way to evaluate Sprint-Carolina/Central's asserted ratio of costs to revenues.

These are only a few of the deficiencies of Sprint-Carolina/Central's "new services" test filings. NCPA believes that, if accurate and comprehensive cost information is presented, the Commission would be compelled to find that Sprint-Carolina/Central's existing payphone access rates do not comply with the new services test. For example, the rates which Sprint-Carolina/Central attempts to justify were established by the NCUC in 1987 and have not been reviewed by the NCUC since that date. At that time, the rates were set in such a way as to ensure that the rates were fully compensatory to the LECs in view of the LECs' obligation to keep residential telephone service available at low rates. As a result, the rates are highly contributory to other basic telephone services -- principally residential service -- and are not reflective of "direct costs plus a reasonable allocation of overhead," as required by the new services test. In particular, based on cost information available to NCPA, the current usage rates of \$.03 for the initial minute and \$.02 for each succeeding minute (peak) are priced at levels which many multiples of their underlying costs.

In light of the foregoing, the NCPA respectfully requests that the Commission take the following actions:

1. Require Sprint-Carolina/Central to file its existing intrastate payphone tariffs with the Commission;
2. Review Sprint-Carolina/Central's May 19, 1997, filing and its existing payphone tariffs for compliance with the requirements of the CC Docket 96-128, including compliance with the new services test;

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3. Require Sprint-Carolina/Central to file the cost information, and supporting worksheets, which is required by the new services test;
4. Allow NCPA to intervene in this proceeding;
5. Establish procedures for the review of Sprint-Carolina/Central's intrastate payphone tariffs, including the allowance of written discovery by intervening parties, the submission of testimony, the opportunity to depose witnesses, and the submission of briefs and other documents establishing the parties' positions relative to the Sprint-Carolina/Central tariffs.

If any questions should arise in connection with this letter, please contact this office.

With best regards,

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.



Marcus W. Trathen

cc: Mary Beth Richards (by hand-delivery)
John Muleta (by hand-delivery)
Michael Carowitz (by hand-delivery)
Rose Crellin (by hand-delivery)
Steve Parrott
Marcus Potter
Vince Townsend

EXHIBIT A

**Order Dismissing and Directing Filings, Docket P-100, Sub 84b,
North Carolina Utilities Commission (May 15, 1997)**

DOCKET NO. P-100, SUB 84b
DOCKET NO. P-55, SUB 1040

DOCKET NO. P-100, SUB 84b

DOCKET NO. P-55, SUB 1040

**In the Matter of
BellSouth Telecommunications, Inc., Tariff to Reduce
Business Rotary Line Rates Pursuant to the
Telecommunications Act of 1996**

ORDER DISMISSING PETITIONS AND DIRECTING FILINGS

Docket No. P-100, Sub 84b

1. Initiate separate proceedings to (i) reduce local exchange company (LEC) rates to eliminate subsidies to the LECs' payphone operations and (ii) reduce LEC payphone service tariffs to cost-based rates;
2. Require LECs to submit the information identified in Paragraph 13 of the NCPA's petition relating to payphone costs and revenues so that subsidies to payphone operations can be identified and eliminated;
3. Require LECs to submit the cost information required by the Federal Communications Commission (FCC's) new services test identified in Paragraph 22 of the NCPA's petition.

4. Require LECs to restructure all tariffs for basic payphone services so that they comply fully with the FCC's requirements set forth in CC Docket No. 96-128;

5. Consolidate review of the tariff filings of BellSouth, Carolina and Central, GTE, ALLTEL, Concord, and TDS Telecom (Barnardsville Telephone Company; Saluda Mountain Telephone Company; and Service Telephone Company), as well as any other LEC tariff filings made in response to FCC Orders in CC Docket No. 96-128, into this single docket.

6. Suspend the effectiveness of the above-referenced tariffs pending the completion of the investigation required by the FCC's Orders in CC Docket No. 96-128.

The NCPA argued at that time that Section 276 of the Telecommunications Act of 1996 (TA96) and associated FCC payphone orders (Payphone Order and Order on Reconsideration) require that LECs file intrastate tariffs for "basic payphone service and unbundled functionalities" which are (1) cost-based, (2) consistent with the requirements of Section 276 as, for example, regarding the removal of subsidies from exchange and exchange access services, and (3) are nondiscriminatory. Order on Reconsideration, Paragraph 163. LECs were required to file these tariffs by January 15, 1997, to be effective by April 15, 1996.

On March 24, 1997, the Commission received for information at its Regular Commission Conference a Public Staff agenda item concerning the tariff filings made by certain LECs, which the NCPA urged the Commission to suspend.

On March 31, 1997, the Commission issued an Order declining to suspend the tariffs and soliciting procedural comments from interested parties.

Docket No. P-55, Sub 1040

On March 24, 1997, BellSouth Telecommunications, Inc. (BellSouth), made a tariff filing to comply with the provisions of the TA96 relating to payphones. TA96 requires that subsidies from basic exchange and exchange access services be discontinued. BellSouth identified through a payphone study a subsidy of \$2.396 million in its intrastate rates. BellSouth has chosen to reduce its business rotary line (hunting) rates, which have traditionally be priced on a value of service basis and include significant contribution.

On March 27, 1997, MCI filed a Petition for Investigation and Request for Suspension of Tariff Pending Investigation concerning the rotary line rate. MCI argued that the amount of subsidy was greater than that identified by BellSouth and should be eliminated by reducing access charges. In its salient points, MCI requested:

1. That BellSouth be required to file with the Commission an intrastate switched access tariff to remove the deregulated payphone investment and associated expenses and to reduce BellSouth's intrastate carrier common line (CCL) charge to reflect the removal of the payphone investment and associated expenses in its intrastate North Carolina operations;
2. That the Commission order (i) an investigation of this tariff to determine whether it serves the public interest and (ii) suspend the effectiveness until such time as the investigation is completed;
3. That a hearing be held in the matter as part of such investigation; and
4. That an expedited discovery and procedural schedule be established that will (i) permit MCI to conduct discovery on BellSouth's filing and (ii) result in a hearing and decision on the removal of the payphone subsidy from BellSouth's intrastate carrier access operations by April 15, 1997, as required by the Federal Communications Commission.

This matter came before the Regular Commission Conference on March 31, 1997. The Public Staff supported BellSouth's proposal, while representatives of MCI, AT&T and the NCPA urged that the reductions should go elsewhere, notably access charges. BellSouth argued that the principal rationale for placing the reductions on business rotary lines was to enable BellSouth to meet competition.

On April 2, 1997, the Commission issued an Order Requesting Procedural Comments concerning MCI's petition and allowed the rotary line rate tariff revision to go into effect as scheduled without prejudice to further Commission action.

The following parties filed comments or reply comments in one or both dockets: AT&T Communications of the Southern States, Inc. (AT&T), the North Carolina Payphone Association (NCPA), ALLTEL Carolina, Inc. (ALLTEL), GTE South Incorporated (GTE), Carolina Telephone and Telegraph Company and Central Telephone Company (collectively, Carolina), MCI Telecommunications Corporation (MCI), BellSouth Telecommunications, Inc. (BellSouth), the Alliance of North Carolina Independent Telephone Company (Alliance).

COMMENTS

NCPA asserted that recent clarification orders issued by the FCC on April 4, 1997, and April 15, 1997, make it plain that LECs must file appropriate cost-based state tariffs for new and existing payphone services and features, to be evaluated by the state commissions utilizing the FCC "new services" test. The "new services" test include a cost study, estimates of traffic and revenues, working papers, and a description of

methodologies. The FCC granted a limited waiver to all LECs to May 19, 1997, in which to file cost support data along with revised tariffs, subject to a true-up requirement. Filing these tariffs and information in a timely manner makes the LEC eligible to receive payphone compensation. The extension of time, however, is subject to a true-up requirement. The clarification orders have removed inordinate time pressure on the states to review these tariffs; the states' obligation is to complete a review of these filings "within a reasonable period of time."

Accordingly, the Commission should order all LECs to file cost-based tariffs which comply with the "new services" test for payphone services and unbundled features by May 19, 1997. Existing payphone tariffs should remain effective pending their review subject to refund or credit liability.

As for the subsidy issue, the NCPA urged that this issue should be examined in a separate proceeding from the above. Consolidation of the subsidy issue with the cost-based rate issue would unduly complicate and delay resolution of both proceedings.

The Alliance argued that the proceeding which the NCPA seeks to initiate is unnecessary and its request unfounded. The Alliance argued that North Carolina LECs are neither similarly situated with respect to their legal and regulatory status nor with respect to costs and rate structures for payphone access. Therefore, a generic proceeding would be inappropriate. Furthermore, a generic cost subsidization inquiry is not required by TA96 or the FCC orders. Nowhere has Congress or the FCC mandated the type of comprehensive cost analysis requested by the NCPA. Such analysis for many of the Alliance's members would be more costly than the revenues derived. Moreover, the cost study provision of the FCC rules apply only to LECs making price cap tariff filings in conformity with the FCC regulation. None of the Alliance members fits this description. Furthermore, Section 276 of TA96 contains no provision requiring the universal submission of detailed cost studies for payphone access charges. The Alliance urged dismissal of the NCPA's petition.

BellSouth urged the Commission to dismiss the NCPA's petition. BellSouth noted that, in fact, it had removed all intrastate payphone subsidies from basic exchange and exchange access rates. With respect to cost-based rates, BellSouth noted that the NCPA did not allege that these rates are below their cost but rather they are "artificially high" and "damage competition." This last assertion is belied by the fact that there are 439 certified COCOT providers in this state and the market is highly competitive. BellSouth cited with approval the Public Staff's statement at the March 24, 1997, Staff Conference that it is satisfied with the level of current payphone service and does not interpret any FCC order to require the Commission to revise existing rates.

Concerning specific matters from the Payphone orders, BellSouth asserted that it could certify that it has in effect appropriate intrastate tariffs for basic payphone services

as well as for unbundled functionalities associated with those lines, as required by the FCC. Moreover, BellSouth's current payphone services are cost-based, meet the requirements of Section 276 and are nondiscriminatory. The Commission has the authority under Paragraph 103 of the Payphone Order to so find.

With respect to the "new services" test, BellSouth asserted that its rates meet the requirement that such rates be based on direct costs plus an appropriate level of overhead costs. BellSouth also cited language from the Commission's November 17, 1987, Order revising PTAS rates in Docket No. P-100, Sub 84, finding the rates promulgated therein to be revenue-neutral, fully compensatory, and pro-competitive.

BellSouth made a separate filing in Docket No. P-55, Sub 1040. BellSouth defended its payphone subsidy study. BellSouth maintained that MCI offered no factual support for its contention challenging the accuracy of the subsidy amount. As for MCI's contention that the CCL charge ought to be reduced, BellSouth pointed out that, unlike the interstate allocation of payphone station costs where a portion of those costs is recovered by the federal CCL charge, intrastate payphone costs are not recovered through a specific charge. MCI's petition should be dismissed.

MCI filed comments under both dockets but only addressed the subsidy issue. MCI identified two issues--the amount of BellSouth's intrastate payphone subsidy and what service/rate elements should be reduced--and suggested a hearing schedule.

Carolina insisted that the LECs have acted in good faith to meet the FCC requirements, some of which have only recently been clarified. The Commission was correct to allow the payphone tariffs to go into effect by April 15, 1997. LECs should provide the Commission the information necessary to determine if intrastate payphone subsidies exist and 2) whether they payphone tariffs meet the "new services" test. If rates are to be adjusted, they should be retroactively adopted effective April 15, 1997.

GTE argued that it has made the necessary subsidy analysis and it has determined that it does not have any subsidy that requires elimination and thus no further action is required to comply with this aspect of the FCC orders. GTE also noted that the FCC has issued clarification orders, including one on April 15, 1997, granting to all LECs a limited waiver until May 19, 1997, to file intrastate tariffs for payphone services consistent with the FCC's Reconsideration Order. GTE will review its existing payphone services intrastate tariffs to determine if they are cost-based and meet the "new services" test. GTE urged that the NCPA's petition be rejected or that, alternatively, the Commission should defer further action until after May 19, 1997.

ALLTEL argued that no further proceeding is necessary at this time with regard to LEC payphone revisions. ALLTEL noted that intrastate tariff revisions have been filed by it and it argued that intrastate rates should not be adjusted on an individual service basis.

The cost studies described by the NCPA would not be practical for most LECs operating in North Carolina so as to determine if a specific service is subsidized, because intrastate rates are residually determined. ALLTEL stated that it has not conducted a subsidy study but would expect such a study to disclose no or a de minimis amount of subsidy. The costs and burdens of such a proceeding would far outweigh the benefits. LECs should be given an opportunity to transition rates over a period of time with the goal of reducing implicit subsidies by explicit subsidies, as is contemplated by universal service reforms.

AT&T addressed the BellSouth subsidy issue only and reiterated its belief that the BellSouth subsidy study substantially understated the amount of subsidy. The Commission should order an investigation of the tariff and cost studies, permit expedited discovery, and conduct a hearing. Any reductions should be applied to reduce switched access charges. AT&T is willing to flow-through any reductions in switched access charges to its customers.

REPLY COMMENTS

Public Staff, after reviewing and summarizing the initial comments in Docket No. P-100, Sub 84b, recommended the following alternatives:

1. Require all of the LECs except BellSouth to file a statement of their conclusions regarding the existence of any subsidy for payphone services in their intrastate rates; require GTE, Carolina/Central, and any other LECs that are prepared to do so to file reports outlining the studies that they have done to support their conclusions; and
2. Require all of the LECs to file tariffs consistent with the "new services" test, including cost support data, for all of their intrastate payphone services and schedule public hearings; or
3. In the alternative, require all of the LECs who determine based on their own analyses that any existing PTAS rates do not meet the "new services" test to file revised rates and supporting data with the FCC for review. The existing rates include rates for PTAS lines and trunks, PTAS usage rates, and rates for various PTAS options. LECs who feel compelled to file cost studies for existing rates which they conclude do not meet the "new services" test should also be directed to file those studies with the FCC.

The analysis presented by the Public Staff indicates that, with respect to the compliance of LEC tariffs with the "new services" test, the Public Staff favors the alternative presented in numbered paragraph 3.

Noting that a generic investigation "would be greater in magnitude and complexity than any local telephone rate case the Commission has ever heard," the Public Staff questioned whether this would be either a wise or necessary deployment of resources. The Public Staff stated that it is satisfied:

1. That LEC rates for PTAS services do, in fact, cover direct costs on the aggregate and include a reasonable level of contribution to overhead costs.
2. That the "new services" test does not require rates to be set at cost or as specifying the amount of contribution. Moreover, to the extent the payphone access rates are above cost, competition can be expected to drive such prices down.
3. That the new rates file by the LECs which have been reviewed by the Public Staff, do in fact meet the "new services" test. To the extent that the LECs determine, based on their own analyses, that any existing PTAS rates do not meet the "new services" test, the LECs should be required to file revised rates and supporting data with the FCC for review.

Concerning intrastate subsidies, the Public Staff noted that the FCC has established no filing requirements or specific guidelines for the states. The Public Staff does not believe that there is either an explicit or implicit subsidy of LEC payphone operations in intrastate rates. In any event, there are adequate measures in place to prevent the subsidization of payphone operations.

Concerning MCI's petition in Docket No. P-55, Sub 1040, the Public Staff recommended that MCI's petition be dismissed. The Public Staff argued that the supposition that a portion of the intrastate costs of providing payphone service is recovered through the CCL rate is completely unfounded.

The NCPA argued that the parties arguing against further review misinterpret the federal requirements. The NCPA suggested that the following are "indisputable facts:"

1. That the FCC is requiring every LEC desiring to receive dial-around compensation from the IXCs to file cost-based payphone tariffs which comply with the new services test.
2. That the FCC is relying on the states to evaluate the compliance of these tariffs with the new services test.
3. That such cannot be done without submission of cost information by each LEC.
4. That no LEC has filed payphone rates complying with the new services test, and

5. That no LEC has filed cost information supporting its payphone rates.

The NCPA therefore recommended that the Commission adopt the review procedures it recommends. The NCPA also endorsed the MCI petition in Docket No. P-55, Sub 1040.

The Alliance argued that the language in the "new services" test--specifically, 47 C.F.R. Section 61.49(g)(2)--states that no specific study data is required nor is any type of cost accounting methodology specified. No generic inquiry is appropriate.

GTE urged that the relief requested by the NCPA is unnecessary and, in certain instances, contrary to the FCC's directives. The FCC has only required LEC certification that subsidies, if present, have been removed.

Carolina took the position that all LECs should provide the Commission the information necessary to determine its intrastate payphone subsidies exist and payphone tariffs meet the new services test. The information should be submitted by May 19, 1997, with all costing information marked "proprietary" and should not be available to other parties. A discovery period and a public hearing would be unnecessary burdens and would delay the competitive market for payphones.

BellSouth recommended that the NCPA's petition be dismissed. No federal or state law, regulation or order requires the review demanded by the NCPA. A case-by-case approach promotes judicial economy and is preferable to the approach recommended by the NCPA. Concerning the subsidy issue in Docket No. P-55, Sub 1040, BellSouth stated that no party has identified probative evidence warranting further proceedings. MCI's petition should be dismissed.

AT&T recommended that the Commission open an investigation of the tariff and accompanying cost studies filed by BellSouth, order an expedited response by BellSouth to certain interrogatories, and determine the amount of BellSouth payphone subsidies. As to certification of the FCC's April 15, 1997, order, AT&T argued that this certification can be made only after appropriate public proceeding.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

NCPA Petition

Concerning Docket No. P-100, Sub 84b, the Commission concurs with the Public Staff's analysis and recommendations in this docket. Since these recommendations are at variance with what the NCPA is recommending, it follows that the NCPA petition should

be dismissed. There have been no fewer than four FCC orders touching on the restructuring of payphones--two main orders (the Payphone Order and Order on Reconsideration) and two "clarification" orders issued on April 4, 1997, and April 15, 1997, and their exact meaning in all instances is not altogether clear. However, the Commission concludes that the Public Staff's interpretation is one which balances the requirements of the Act and the FCC orders, the obligations of this Commission, and the practical limitations of time and resources under which the Commission and Public Staff are laboring.

In summary, the essential Public Staff recommendations are as follows:

1. Require all of the LECs who determine, based on their own analyses, that any existing PTAS rates do not meet the "new services" test, to file revised rates and supporting data with the FCC for review. The existing rates include rates for PTAS lines and trunks, PTAS usage rates, and rates for various PTAS options. LECs who feel compelled to file cost studies for existing rates which they conclude do not meet the "new services" test should file these studies with the FCC. (Those filings, pursuant to the FCC's April 15, 1997, Order are due on May 19, 1997).

2. Require all LECs, except BellSouth, to file a statement with the Commission of their conclusions regarding the existence of any subsidy for LEC payphone operations in their intrastate rates. GTE, Carolina/Central and any other LECs that are prepared to do so, should file reports outlining the studies they have done to support their conclusions.

In support of these recommendations, the Public Staff stated that reviewing existing payphone tariff rates is a task which would take considerable time and resources. (The existing rates include rates for PTAS lines and trunks, PTAS usage rates, and rates for various PTAS options). The Commission agrees with the Public Staff's analysis of the inordinate time and resources necessary. Moreover, it should be noted that the basic payphone line rate, which is typically set at a 60% discount off of the business individual line rate undoubtedly will be subject to review and change in pending dockets with this Commission (specifically, the prospective generic costing docket as well as to competitive forces in the emerging marketplace).

The Public Staff further stated that, in its opinion, the tariffs for new rates filed by the LECs, which are now effective, meet the "new services" test. The Commission concludes that, based on the Public Staff's statement that these rates do meet the "new services" test, no further review or filings for those rates are necessary.

The Commission agrees with the Public Staff's recommendation that if the LECs determine, based on their own analyses, that any existing PTAS rates do not meet the "new services" test, the LECs be required to file revised rates and supporting data with the FCC for review. This option is specifically authorized in Paragraph 163 of the FCC's

Order on Reconsideration. Paragraph 163 of the FCC's Order on Reconsideration states that "[s]tates unable to review these tariffs may require the LECs operating in their state to file these tariffs with the Commission." The Commission finds it is unable to review such tariffs.

With respect to the removal of intrastate subsidies requested by the NCPA, the Commission notes the Public Staff's statement that it does not believe that either an explicit or implicit subsidy of LEC payphone operations exists in intrastate rates. In addition, the FCC has established no filing requirements or specific guidelines for the states in this matter. Accordingly, the Commission endorses the Public Staff recommendations that all LECs other than BellSouth file statements regarding the existence of subsidies and, if they are prepared to do so, submit reports outlining the studies in support of their conclusions.

MCI Petition

Concerning MCI's petition in Docket No. P-55, Sub 1040, the Commission is persuaded by the Public Staff's and BellSouth's arguments that this petition should be dismissed.

As both the Public Staff and BellSouth point out, intrastate payphone station costs, unlike the interstate allocation of payphone costs, are not recovered through a specific charge such as the carrier common line (CCL) charge. Concerning BellSouth's cost study itself, the Public Staff has also pointed out its belief that BellSouth has utilized the appropriate methodology and, if anything, has tended to overstate the subsidy.

IT IS, THEREFORE, ORDERED as follows:

1. That all LECs who determine, based on their own analyses, that any existing PTAS rates do not meet the "new services" test, file revised rates and supporting data with the FCC for review by May 19, 1997. Existing rates include rates for PTAS lines and trunks, PTAS usage rates, and rates for various PTAS options. LECs who decide to file cost studies for existing rates that they conclude do not meet the "new services" test shall file those studies with the FCC.

2. That all LECs, except BellSouth, file a statement with the Commission of their conclusions regarding the existence of any subsidy for LEC payphone operations in their intrastate rates. GTE, Carolina/Central and any other LECs that are prepared to do so shall file reports with their statements outlining the studies they have done to support their conclusions. Such filings are due no later than June 2, 1997.

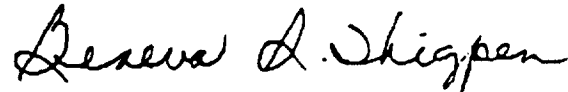
3. That the NCPA's petition filed on March 20, 1997, in Docket No. P-100, Sub 84b, be dismissed.

4. That MCI's petition filed on March 27, 1997, in Docket No. P-55, Sub 1040, be dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of May, 1997.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script, reading "Geneva S. Thigpen".

Geneva S. Thigpen, Chief Clerk

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